

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ALFRED GRAYSON, No. CIV S-03-1694 MCE KJM P

Petitioner,

vs.

ORDER

TOM CAREY,

Respondent.

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Petitioner, a state prisoner proceeding pro se, has timely filed a notice of appeal of this court's September 11, 2006 denial of his application for a writ of habeas corpus. Before petitioner can appeal this decision, a certificate of appealability must issue. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

A certificate of appealability may issue under 28 U.S.C. § 2253 "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The certificate of appealability must "indicate which specific issue or issues satisfy" the requirement. 28 U.S.C. § 2253(c)(3).

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1 A certificate of appealability should be granted for any issue that petitioner can  
2 demonstrate is ““debatable among jurists of reason,”” could be resolved differently by a different  
3 court, or is ““adequate to deserve encouragement to proceed further.”” Jennings v. Woodford,  
4 290 F.3d 1006, 1010 (9th Cir. 2002) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 (1983)).<sup>1</sup>

5 Petitioner has made a substantial showing of the denial of a constitutional right in the  
6 following issue(s) presented in the instant petition: whether admission of the victim’s statements  
7 to Officer Smith violated the confrontation clause.

8 Accordingly, IT IS HEREBY ORDERED that a certificate of appealability is issued in the  
9 present action.

10 DATED: October 12, 2006

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MORRISON C. ENGLAND, JR.  
UNITED STATES DISTRICT JUDGE

25       <sup>1</sup> Except for the requirement that appealable issues be specifically identified, the standard  
26 for issuance of a certificate of appealability is the same as the standard that applied to issuance of  
a certificate of probable cause. Jennings, at 1010.